CONFERENCE OF THE COMMITTEE ON DISARMAMENT

CCD/PV.441
9 October 1969
ENGLISH

FINAL VERBATIM RECORD OF THE FOUR HUNDRED AND FORTY-FIRST MEETING

held at the Palais des Nations, Geneva,
on Thursday, 9 October 1969, at 10.30 a.m.

Chairman: Miss E. AGUIRRE (Mexico)

(Previous verbatim records in this series appeared under the symbols ENDC/PV.1-ENDC/PV.430)

GE.69-22184

69-35713

PRESENT AT THE TABLE

Argentina:	Mr. A.F. DUMONT
	Mr. O. SARACHO
Brazil:	Mr. S.A. FRAZAO
	Mr. P. CABRAL de MELLO
	Mr. L.F. PALMEIRA LAMPREIA
	Mr. M. DARCY de OLIVEIRA
Bulgaria:	Mr. K. CHRISTOV
	Mr. I. PEINIRDJIEV
Burma:	U KYAW MIN
Canada:	Mr. G. IGNATIEFF
	Mr. R.W. CLARK
Czechoslovakia:	Mr. T. LAHODA
	Mr. J. CINGROS
Ethiopia:	Mr. A. ZELIEKE
Hungary:	Mr. I. KOMIVES
	Mr. I. SARKADI
	Mr. S. HAJNAL
India:	Mr. M.A. HUSAIN
	Mr. N. KRISHNAN
	Mr. K.P. JAIN
Italy:	Mr. R. CARACCIOLO
	Mr. F.L. OTTIERI
	Mr. R. BORSARELLI
	Mr. U. PESTALOZZA
Japan:	Mr. Y. NAKAYAMA
	Mr. T. SENGOKU
	Mr. J. SAKAMOTO

Mexico:	Miss E. AGUIRRE
	Mr. J. MERCADO
Mongolia:	Mr. Z. ERENDOO
	Mrs. D. BALJINNYAM
Morocco:	Mr. A.A. KHATTABI
Netherlands:	Mr. H.F. ESCHAUZIER
	Mr. E. BOS
Nigeria:	Mr. C.O. HOLLIST
	Mr. L.A. MALIKI
Pakistan:	Mr. K. AHMED
	Mr. S.A.D. BUKHARI
Poland:	Mr. K. ZYBYLSKI
	Mr. H. STEPOSZ
	Mr. R. WLAZLO
Romania:	Mr. N. ECOBESCO
	Mr. C. GEORGESCO
	Mr. C. MITRAN
Sweden:	Mr. A. EDELSTAM
	Mr. R. BOMAN
Union of Soviet Socialist Republics:	Mr. A.A. ROSHCHIN
	Mr. R.M. TIMERBAEV
	Mr. V.B. TOULINOV
	Mr. Y.C. NAZARKINE
United Arab Republic:	Mr. H. KHALLAF
	Mr. O. SIRRY
	Mr. Y. RIZK
	Mr. M. ISMAIL

United Kingdom:	Mr. I.F. PORTER
	Mr. W.N. HILLIER-FRY
	Mr. R.I.T. CROMARTIE
	Mr. R. HOULISTON
United States of America:	Mr. J.F. LEONARD
	Mr. A.F. NEIDLE
	Mr. W. GIVAN
	Mr. R.L. McCORMACK
Yugoslavia:	Mr. M. VUKOVIC
Special Representative of the Secretary-General:	Mr. D. PROTITCH
Deputy Special Representative of the Secretary-General:	Mr. W. EPSTEIN

1. The CHAIRMAN (Mexico) (translation from Spanish): I declare open the 441st plenary meeting of the Conference of the Committee on Disarmament.

2. Mr. IGNATIEFF (Canada): First of all I should like to express the pleasure of the Canadian delegation at the return of our old friend and colleague, Mr. Kazimierz Zybylski, and to express our regrets that other ministerial duties have necessitated the departure of another old friend, the Right Honourable Fred Mulley, whose contribution to the work of this Committee has been so outstanding and whose message of farewell to disarmament was read out at the last meeting (CCD/PV.440, para.39).

3. Today I should like to introduce a Canadian working paper, which has been distributed as document CCD/270. This paper sets out specific proposals as to the procedures which we believe should be considered as a reasonable basis for the implementation of the "right to verify" in article III of the co-Chairmen's joint draft on the sea-bed, which was circulated at the last meeting as document CCD/269.

4. In an earlier statement I referred to the need for all of us here to seek common purposes on each issue which came before us before freezing that agreement in treaty language. We are pleased that, with regard to arms control on the sea-bed, the co-Chairmen have apparently found this common ground, and indeed have gone on to produce an agreed draft treaty. Its tabling follows a long and obviously difficult period of negotiations, primarily between the two co-Chairmen. Their success in achieving agreement represents a vital step forward, which augurs well, I hope, for the eventual conclusion of an arms control treaty for the sea-bed and for progress on other issues before this Committee. It now falls to other members of the Committee to see how much common ground we can all find in examining the draft put before us by the co-Chairmen.

5. The scope and geographic limits of the treaty, which have been the main focus of attention on the part of the representatives of those Governments which at this time have the capability of emplacing the weapons to be prohibited if this agreement comes into effect, will obviously be the subjects of further debate both here and at the United Nations General Assembly. A matter of special concern to all other potential adherents to such a treaty, however, is the assurance that whatever may be agreed upon, both as to the categories of weapons to be prohibited and as to the geographic scope, will be complied with.

(Mr. Ignatieff, Canada)

6. We believe that the verification procedures, to be generally acceptable as giving such an assurance, should be based on two criteria: first, they must, to the satisfaction of all signatories, detect any significant breaches of the treaty with a minimum of delay, providing in the last analysis incontrovertible evidence; and secondly, they must be in accord with and support the existing Law of the Sea as it affects the interests of coastal States.

7. From the draft presented to us by the co-Chairmen we know the engagements which their Governments are willing to accept in prohibiting the extension of the nuclear arms race to the sea-bed. What we want to know now is, what engagements are the two Powers willing to accept in relation to others, especially the many coastal States, that these engagements will be kept, and what procedures are they willing to agree to in the event that any State has reasonable concern that a threatening installation may have been observed on the sea-bed clearly within its jurisdiction as defined under the existing Law of the Sea? In other words, what we want to know is just how the "right to verify" specified in article III of the co-Chairmen's draft is to be exercised.

8. It has been the view of some delegations that, if this treaty is to be truly multilateral in nature and to achieve widespread adherence, it must contain more than a verification clause adequate for a limited number of signatories, even if those signatories are the most important signatories. The Canadian delegation suggests that, in order to meet the basic criteria to which I have referred, there are three important aspects of the verification problem which must receive more detailed treatment in any article which might ultimately be accepted by this Committee.

9. In the first place, there must be some mechanism to ensure that, in the final analysis, disputes regarding verification can be resolved once the concern of a State is engaged that the treaty is not being fully complied with.

10. There must also be provisions in the article which would guarantee the ability of all signatories to share in the verification procedures, either independently or in co-operation with other parties, so that signatories should not be at any unfair disadvantage owing to lack of the necessary technology or skill.

(Mr. Ignatieff, Canada)

11. The other main concern is that there should be a clear re-statement of the pertinent rights of coastal States under existing international law, so that these States may be assured that these rights are fully protected under the treaty now under negotiation. When the subject matter of such a treaty deals specifically with areas of vital interest to States expected to become parties, States are unlikely to accept wording which leaves these issues unclear, or which is claimed to provide protection by indirection. Broad acceptance can be achieved only by ensuring that the draft treaty is clearly fitted into the totality of the existing framework of international law. Viewed against these criteria, the provisions in the draft treaty submitted by the co-Chairmen require, in the view of the Canadian delegation, careful examination.

12. Bearing in mind these considerations, I should now like to turn to a very short explanation of the specific points in our working paper.

13. Paragraph 1, which seeks to impose on parties the obligation to recognize existing rights, is in keeping with the proposition that the relevant rights of States under international law should be re-stated and taken fully into account in this treaty. It also provides specifically for what is clearly the first step in the verification article of the joint draft co-sponsored by the co-Chairmen: the right to observe.

14. Paragraph 2 provides an outline of what would be the second step in a verification effort -- the right of all parties to consult and an undertaking to co-operate in attempting to resolve difficulties which might arise.

15. Paragraph 3 is the point at which our proposal begins to go beyond the verification article put forward by the co-Chairmen. While the co-Chairmen have provided indirectly for observation and consultation, the phrase "right to verify" is open to several interpretations, some of which are not very reassuring.

16. It is our view that this concept of verification stops short of providing precisely how the concern of a State is to be adequately met if the second step of bilateral consultation and co-operation fails. The procedure envisaged in our working paper is that the State or States controlling the installation or facilities in question will be given notice of the desire to carry out verification by inspection, without -- I emphasize "without" -- interfering with the activities involved.

(Mr. Ignatieff, Canada)

17. Paragraph 4 would provide for ultimate recourse to the Security Council, if the necessary co-operation of such States were not forthcoming. It can be argued that parties already have the right, under the Charter, to raise such issues in the Security Council. But we believe that specific reference to this right will serve to provide assurance that complaining States retain the right of having recourse to the Security Council if the suspected non-compliance gives sufficiently serious concern.

18. It is also in this paragraph that the question of "access" is raised. Such access as an ultimate recourse must be provided, we believe, in order to ensure credibility for the whole verification process. We cannot emphasize too strongly, however, that this provision would be activated only as a last resort, should all other attempts to resolve the point at issue fail, and should be in accordance with the existing Law of the Sea. Otherwise, how can we speak of a credible "right to verify"?

19. In paragraph 5 an attempt is made to meet more fully the concern of the less technologically developed States that verification should be available to allay any doubts they might have about specific events. Sub-paragraph 5(a) provides for third-party assistance, either bilaterally -- a provision whose inclusion in the co-Chairmen's draft the Canadian delegation welcomes -- or through the good offices of the Secretary-General of the United Nations. Sub-paragraphs 5(b) and (c) set out suggestions regarding details of the procedures and obligations surrounding a request for assistance in carrying out necessary verification inspection processes, to be channelled through the Secretary-General.

20. In paragraph 6 we have sought to point up as fully as possible the rights of coastal States under international law, and particularly under the 1958 Geneva Convention on the Continental Shelf[1]. Through the provision for prior notification to coastal States regarding possible verification on their continental shelf and for their association in a manner acceptable to both parties in the actual verification, the treaty would ensure that the relevant rights of coastal States under international law could be fully protected.

21. Paragraph 7 of our paper is a routine, although important, clause under which all parties to the treaty undertake to co-operate to implement the article on verification.

1/ United Nations Treaty Series, Vol. 499, pp. 311 et seq.

(Mr. Ignatieff, Canada)

22. Paragraph 8, which envisages inclusion of review provisions in the final treaty, confirms that the procedures of verification, which will obviously have to be altered in the light of experience and changing technology, should be one of the subjects of any such review conference.

23. In concluding, I would make the more general remark that modern technology, with its restless urge for constant innovation, is hardly consistent with such static concepts in the co-Chairmen's draft as the veto power on the right to amend the treaty and the lack of provision for review.

24. In submitting these proposals regarding verification, the Canadian delegation approaches the problem with no sense of finality or infallibility, still less of inflexibility. Francis Bacon wisely said: "If a man will begin with certainties, he shall end in doubts; but if he will be content to begin with doubts, he shall end in certainties." So with the contents of this paper: we seek to establish certainties only in respect of principles and of the law, allowing for flexibility as to the language and the means, until we are agreed on the objectives.

25. If the contents of our working paper on verification seem long in relation to the co-Chairmen's draft treaty, or excessively detailed, I would point out that the concept of the "right to verify" requires clarification in some detail, point by point, if the result is to be regarded as effective by the many governments which will wish to be assured about compliance with the terms of the treaty before they decide whether or not to sign it.

26. As to form, our working paper attempts a certain precision of language as an aid to further consultations because, as I am sure we are all agreed, the time for generalities is past and the time for negotiation is at hand. It is not an amendment at this stage, but rather a checklist of verification procedures directly related to the implementation of the right to verify contained in the co-Chairmen's draft treaty. Our working paper, therefore, which tries to clarify and define the procedures which would be open to the signatories of the treaty under the right to verify, should, I suggest, be examined by this Committee along with article III of the co-Chairmen's draft.

(Mr. Ignatieff, Canada)

27. Our aim is to seek to strengthen the draft treaty by helping towards the broadest possible consensus. This would not only redound to the credit of this Committee as a negotiating body; it would also help to meet the concern of coastal States, which represent an important part of the international community.

28. Mr. CARACCIOLO (Italy) (translation from French): I should like to associate myself with my Canadian colleague in expressing the regret felt by my delegation of the departure of Mr. Fred Mulley, Minister of State, to whom we are grateful for enhancing by his presence the prestige of our work over a long period of time. We wish him all possible success in his new and important task in the Government of his country.

29. I should like also to welcome the new representative of Poland, Mr. Kazimierz Zybylski, on his return to our Committee.

30. One of the problems most discussed during the present session of the Conference of the Committee on Disarmament -- that is, the elaboration of a treaty on the denuclearization of the sea-bed and the ocean floor -- is now entering a crucial phrase. The Conference now has available a text which is the fruit of long and difficult negotiations. On behalf of the Italian delegation, I should like first of all to thank the co-Chairmen for the efforts which they have made, and to congratulate them on reaching agreement on a joint text. This is a good augury for the development of negotiations between the two nuclear Powers and, at the same time, further evidence of the importance of the role played by the Committee on Disarmament as an indispensable point of convergence in the negotiations which should lead to the establishment of lasting peace throughout the world.

31. In my statement today I should like to express the first reactions of my delegation to the text before us, and to comment on certain problems already mentioned in my statements of 13 May (ENDC/PV.410) and 29 July (ENDC/PV.423) and in whose solution, unfortunately, hardly any progress has been made.

32. I shall therefore begin with a first examination of article III, and I should like to say immediately and very frankly that it appears to us inadequate in its present wording. We think indeed that the problem of control constitutes a complementary and necessary aspect of disarmament measure, without any exception

(Mr. Caracciolo, Italy)

whatsoever, and that it assumes a substantive character as the application of a general principle. The joint declaration made by the United States and the Soviet Union on the principles agreed in 1961 for negotiations concerning general and complete disarmament leaves no room for doubt in this respect; paragraph 6 of the agreed statement says that "All disarmament measures should be implemented from beginning to end under ... strict and effective international control ..." (ENDC/5)

33. There is no need for a lengthy demonstration to recall that the same problem of control was the crucial point in all the negotiations leading to the conclusion of the non-proliferation Treaty (ENDC/226*). During the discussions prior to its approval article III was the one that gave rise to the most discussion and controversy. The serious commitments undertaken by the non-nuclear States with regard to control are undoubtedly one of the fundamental characteristics of that important instrument for peace and international co-operation. It should also be recalled that the discussions on the drafting of a treaty for the discontinuance of underground nuclear tests which were carried on in this Committee during several sessions, and became highly technical, have so far foundered on the fundamental problem of setting up control machinery capable of providing the necessary guarantees of compliance with the provisions of the treaty.

34. In one of my previous statements I asked:

> "why ... the need for an international control body has been so strongly felt in the case of the Treaty on the Non-Proliferation of Nuclear Weapons, why it is so laboriously sought with a view to the conclusion of an agreement on underground nuclear explosions or an agreement on the limitation of the production of fissionable materials, while it is rejected in the case of the demilitarization of the sea-bed and the ocean floor." (ENDC/PV.410, para.53)

35. According to these general considerations and in conformity with the principle which requires that any disarmament measure, to be effective, must create identical rights and duties for all signatories, the Italian delegation has constantly affirmed the necessity of establishing adequate international machinery to guarantee compliance with the provisions of the treaty on the denuclearization of the sea-bed

(Mr. Caracciolo, Italy)

and the ocean floor. If we have not proposed rigid formulas or complicated solutions, it is because we are perfectly aware of the delicate and complex aspects of the problem and the cost of setting up new and cumbersome international structures.

36. However, we wish to stress once again that it is essential that the principle of international responsibility in the matter of control should be recognized in the provisions of the treaty. In other words, an adequate procedure introducing -- through machinery to be determined -- recourse to international organizations must be established; and this both on account of the principles I have mentioned and because of the legitimate concern of States with very long coastlines at seeing certain of their inalienable sovereign rights -- such as that concerning the continental shelf, which is recognized by the Geneva Convention of 1958[1/] -- threatened by unjustified verification operations which might be carried out by other States.

37. In this connexion we listened with interest to the delcaration made by the representative of the United States of America at the meeting on 7 October, when he said:

> " ... legitimate activities on the sea-bed would not be subject to interference. For example, the provision does not imply the right of access to sea-bed installations or any obligation to disclose activities on the sea-bed that are not contrary to the purposes of the treaty." (CCD/PV.440, para. 32)

38. We consider that this declaration is particularly helpful. However, it seems to us necessary that this concept should be made more precise and complete in the actual text of the treaty. Moreover, if the States which adhere to the agreement now under discussion consider themselves to be threatened by the real or suspected activities of other States, they must be able to avail themselves of the guarantees provided by the treaty without the need to have recourse to the optional assistance of the technologically more advanced States.

1/ United Nations Treaty Series, Vol. 499, pp. 311 et seq.

(Mr. Caracciolo, Italy)

39. Against these requirements it might of course be objected that in fact the treaty to be concluded on the basis of the joint draft of the co-Chairmen concerns nuclear weapons exclusively, and that consequently only the nuclear Powers are affected by the problem of the control relating thereto. We cannot accept that thesis. In the first place, the treaty certainly refers to nuclear weapons, but it refers also to all weapons of mass destruction; and we cannot be certain today that in the future this expression will continue to indicate only nuclear weapons. But there seems to be another reason for not accepting that thesis. The preamble to the draft treaty in fact says explicitly that "This Treaty constitutes a step towards a Treaty on General and Complete Disarmament under strict and effective international control ..." (CCD/269). Therefore this concept should logically, in our opinion, and even from the strictly legal point of view, find its concrete application in the operative part of the treaty.

40. For all the reasons I have just explained we consider that the working document (CCD/270) submitted today by the Canadian delegation contains extremely interesting and useful suggestions, and that consequently it deserves the fullest attention of this Committee and commends itself most particularly to the consideration of the co-Chairmen.

41. Finally, it seems to us that the suggestions formulated by the delegation of Brazil in its working document of 1 September last (CCD/267) concerning the settlement of disputes to which the application of the treaty might give rise also deserve close study.

42. Having set forth the point of view of my delegation on the problem of control, which is now the most delicate part of the treaty on the denuclearization of the sea-bed and the ocean floor, I should like to make a few brief comments on other points in the draft before us.

43. I shall begin with the preamble. We were pleased to note the introduction of the fourth paragraph which aims at integrating this agreement within the wider framework of general and complete disarmament. This is a very positive declaration of principle. It must be noted, however, that such an agreement does not diminish in any way the military power of the opposing blocs; therefore other concrete disarmament agreements will be necessary before we can talk about real progress along the road to general and complete disarmament. Obviously

(Mr. Caracciolo, Italy)

we hope that this concrete progress will be achieved as rapidly as possible. To this end, it seems to us that it would be advisable to improve the text in question so that it becomes an incentive to the conclusion of other agreements aiming at the reduction of nuclear weapons, in accordance with article VI of the non-proliferation Treaty.

44. On the other hand, the third paragraph of the preamble seems to cause a certain amount of perplexity. Certainly it is drafted in extremely general terms and there can be no doubt that the objective of excluding the sea-bed and the ocean floor from the arms race is highly commendable. Nevertheless, since the drafting of this paragraph leaves open the possibility of concluding agreements of wider scope as regards the demilitarization of the marine depths, I wish to reaffirm clearly what I have already said in my statement of 29 July (ENDC/PV.423, para.33): it is quite true that, within the present framework of an agreement providing for the prohibition of weapons of mass destruction only, Italy is ready to accept the proposed twelve-mile limit. However, if other agreements were to envisage extending the prohibition to other weapons, we should be compelled, by virtue of the requirements of our national security, to reconsider completely the question of the geographical limits relating to any new prohibition.

45. I now turn to article IV. The text of this article, and more particularly the clause under which amendments to the treaty must be approved by a majority of the parties to the treaty, including all the nuclear Powers, raises, in our opinion, a serious problem, because this is tantamount to establishing a right of veto in a new international instrument of particular importance. The fact that the United Nations Charter admitted the necessity of a qualified majority in regard to decisions where international peace and security are at stake recognized at the time the existence of certain relationships of power and could therefore be justified. Also, while it is true that paragraph 2 of article VIII of the non-proliferation Treaty recognizes the principle of a qualified majority including the nuclear Powers, it is equally true that this paragraph introduces an important modification to an exclusive right of veto by including in this majority all the States members of the Board of Governors of the International Atomic Energy Agency.

(Mr. Caracciolo, Italy)

46. On the other hand, in the treaty on the denuclearization of the sea-bed and the ocean floor, the codification of the right of veto would introduce an element of discrimination between the signatories which seems to us to be quite unjustified, even for reasons of security, because each State is free, under article V, to withdraw from the treaty if it considers that its supreme interests are jeopardized. We consider therefore that the discrimination proposed in this draft treaty should be done away with.

47. Before concluding, I venture to make a brief comment on article I of the treaty, an article which we know very well to have been the subject of particularly difficult negotiations between the two co-Chairmen. However, I cannot help remarking that it would have been desirable to make it clear in that article that within the contiguous zone the coastal State fully retains its power of decision regarding the setting up of any military installation, and to make it clear also that it retains the right to conclude agreements with third States for the setting up of any military installation.

48. That is the substance of my preliminary remarks on the new text which has been submitted to us and I reserve the right to revert to these problems, if necessary, in the course of our forthcoming discussions.

49. Mr. ARAZAO (Brazil): I should like, first of all, to add my voice to those which have expressed regret at the departure from our midst of the Right Honourable Fred Mulley. Mr. Mulley was a brilliant representative, whose statements and proposals always contributed to the progress of the work of the Committee. I also want to add Brazil's welcome to that already expressed to the new Polish representative, Mr. K. Zybylski.

50. I shall be very brief in stating what I have to say today. The Brazilian delegation supports in principle the concepts and ideas included in the working paper (CCD/270) submitted this morning by the delegation of Canada. We are also in agreement in general terms with the explanations given by Mr. Ignatieff in introducing this working paper. In total accord with our previous statements, we are prepared to submit in due time modified language for paragraph 1 and sub-paragraphs 6(a) and 6(c), which in their present wording still do not meet our views on the subject. We hope that our modifications will be acceptable to the delegation of Canada and to all delegations which share our approach to these questions of verification and control, bearing in mind the inherent rights of the coastal States.

The Conference decided to issue the following communiqué.

"The Conference of the Committee on Disarmament today held its 441st plenary meeting in the Palais des Nations, Geneva, under the chairmanship of Miss Elisa Aguirre, representative of Mexico.

"Statements were made by the representatives of Canada, Italy and Brazil.

"The delegation of Canada submitted a working paper on article III of the co-Chairmen's draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof (CCD/270).

"The next meeting of the Conference will be held on Tuesday, 14 October 1969, at 10.30 a.m."

The meeting rose at 11.20 a.m.